



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

May 22, 2000

H.R. 3489

Wireless Telecommunications Sourcing and Privacy Act

As ordered reported by the House Committee on Commerce on May 17, 2000

SUMMARY

CBO estimates that enactment of H.R. 3489 would have a negligible effect on the federal budget. The bill contains both an intergovernmental mandate and a private-sector mandate, as defined by the Unfunded Mandates Reform Act (UMRA). CBO estimates that the costs of these mandates would fall below the thresholds established by UMRA.

Two years after enactment, H.R. 3489 would prohibit state and local governments from taxing mobile telecommunications calls unless a customer's place of primary telephone use is within the taxing jurisdiction of the state or local government. In addition, H.R. 3489 would amend the Communications Act of 1934 to prohibit modifying any equipment used to communicate electronically in any manner that would not comply with regulations affecting electronic eavesdropping. Finally, the bill would require the General Accounting Office to issue a report on regulatory fees collected by the Federal Communications Commission (FCC) for mobile telecommunications services during fiscal years 1998 through 2000.

Certain charges imposed on telecommunications services either by states or the federal government under the Telecommunications Act of 1996 to support universal service are recorded in the federal budget as receipts and direct spending. (Universal Service is a program intended to promote the availability of telecommunications services at affordable rates.) Although enactment of H.R. 3489 could affect these charges, CBO estimates any changes would not be significant. In addition, the bill would impose criminal penalties for intercepting, publishing, or divulging a communication that is not authorized. Because H.R. 3489 could affect direct spending and receipts, pay-as-you-go procedures would apply, but CBO estimates that any such effects would be negligible. CBO estimates that net discretionary costs to the FCC to implement the provisions of this bill also would be negligible.

H.R. 3489 contains an intergovernmental mandate as defined in UMRA, because it would preempt state and local government laws by prohibiting jurisdictions from taxing mobile telecommunication services unless the jurisdictions contain a customer's place of primary use. While data are limited, CBO estimates the mandate would not impose significant net costs on state or local governments and would not exceed the threshold established in UMRA (\$55 million in 2000, adjusted annually for inflation).

H.R. 3489 would impose a new private-sector mandate, as defined in UMRA, on manufacturers, importers, sellers, and those who modify scanning receivers. The direct cost of the mandate would be well below the annual threshold established in UMRA for private-sector mandates (\$109 million in 2000, adjusted for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

Under the Universal Service Fund established by the Telecommunications Act of 1996, the FCC seeks to provide universal access to telecommunications services through various charges to some telephone companies and payments to others. The 1996 act also permits states to establish additional collections and payments to preserve and advance universal service, so long as these mechanisms are not inconsistent with federal law.

The Universal Service Fund records these transactions on the federal budget as governmental receipts and direct spending. To the extent that states choose to use charges on mobile telecommunications service to support universal service, H.R. 3489 could result in reduced revenues collected and lower direct spending. But based on information from the FCC and the Universal Service Administrative Company, CBO estimates that any change in revenues and direct spending as a result of enacting this legislation would be negligible.

H.R. 3489 would amend the Communications Act of 1934 to prohibit modifying any equipment used to communicate electronically in any manner that would not comply with regulations affecting electronic eavesdropping. The bill would direct the FCC to prepare regulations to deny the authorization to use FCC equipment for certain scanning receivers that may be capable of unauthorized interception of communication transmissions. Based on information from the FCC, CBO estimates that these regulations would cost less than \$500,000 to promulgate, assuming availability of appropriated funds.

The bill also would amend the Communications Act of 1934 to impose criminal penalties for intercepting, publishing, or divulging a communication that is not authorized; consequently, the federal government might collect additional fees if H.R. 3489 is enacted. Collections of such fees are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. CBO estimates that any

additional receipts and direct spending that would occur under this bill would be negligible. Under current law, any enforcement costs that the agency incurs are offset by fees charged to the industries that the FCC regulates. As a result, we estimate that this provision would not result in any significant net cost to the federal government.

CBO estimates that the other provisions of the bill would have no significant budgetary impact. The costs of this legislation fall within budget function 370 (commerce and housing credit).

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. As noted above, H.R. 3489 could affect direct spending and receipts, but CBO estimates that any such effects would be negligible.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 3489 would preempt state and local government laws by prohibiting jurisdictions from taxing mobile telecommunications services unless the jurisdictions contain a customer's place of primary use. Such a preemption would be a mandate as defined in UMRA. This change could initially benefit some taxing jurisdictions and harm others depending on the number of customers with places of primary use within each jurisdiction. The bill would not require or prohibit state and local governments from taxing telecommunications services or affect the rate at which such services could be taxed. It would, however, require a uniform basis for determining which jurisdictions may tax mobile telecommunications services.

Because the current system of taxing mobile telecommunications services is very complex, it is unclear what effect this change may have on revenues from such taxes. Based on information from groups representing the affected state and local governments, however, CBO estimates that the bill would, in total, be approximately revenue neutral across the country, although the distribution of revenues among jurisdictions would likely change.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 3489 would impose a new private-sector mandate, as defined by UMRA, on manufacturers, importers, sellers, and those who modify scanning receivers. Section 5 of the bill would expand the FCC's criteria for certifying equipment before it can be imported or marketed. Based on information provided by the leading manufacturer of scanning receivers

and the FCC, CBO estimates that the direct cost of complying with H.R. 3489 would fall well below the statutory threshold for private-sector mandates (\$109 million in 2000, adjusted annually for inflation).

PREVIOUS CBO ESTIMATES

On May 9, 2000, CBO transmitted a cost estimate of S. 1755, the Mobile Telecommunications Sourcing Act, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on April 13, 2000. S. 1755 is nearly identical to the provisions of H.R. 3489 that concern state taxation of mobile telephone services, and our cost estimates are the same for these provisions.

On February 22, 1999, CBO transmitted a cost estimate of H.R. 514, the Wireless Privacy Enhancement Act of 1999, as ordered reported by the House Committee on Commerce on February 11, 1999. H.R. 514 is nearly identical to the provisions of H.R. 3489 that concern electronic eavesdropping, and our cost estimates are the same for these provisions.

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